

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

DARRYL OWEN WALIZER,

Defendant.

2:10-CR-00124-PMP-RJJ

ORDER

Before the Court for consideration is Defendant Darryl Owen Walizer's Motion to Dismiss Count Two of the Indictment or, Alternatively, Determine the Elements and Proof Required for Conviction (Doc. #25), filed on June 25, 2010. On December 30, 2010, the Honorable Robert J. Johnston, United States Magistrate Judge entered a Report and Recommendation (Doc. #51) recommending that Defendant's Motion to Dismiss Count Two of the Indictment or, Alternatively, Determine the Elements and Proof Required for Conviction (Doc. #25) be denied.

The Court has conducted a de novo review of the record in this case in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2 and determines that Magistrate Judge Johnston's Report and Recommendation should be Affirmed.

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1 **IT IS THEREFORE ORDERED** that Magistrate Judge Johnston's
2 Report and Recommendation (Doc. #51) is Affirmed and Defendant Darryl Owen
3 Walizer's Motion to Dismiss Count Two of the Indictment or, Alternatively,
4 Determine the Elements and Proof Required for Conviction (Doc. #25) is **DENIED**.

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6 DATED: January 11, 2011.

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9 PHILIP M. PRO
United States District Judge